

Santavara

OSWEGO COUNTY COURT

COUNTY OF OSWEGO STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

- vs -

JAMES H. STEEN, JR.,

Defendant.

INDICTMENT#

10C-0138

NYSID#

6026979R

SENTENCE

Public Safety Center
39 Churchill Road
Oswego, New York 13126
June 23, 2011

B e f o r e :

HONORABLE WALTER W. HAFNER, JR.,

Judge

A p p e a r a n c e s :

Oswego County District Attorney's Office
Public Safety Center
39 Churchill Road
Oswego, New York 13126
By: DONALD H. DODD, ESQ.
District Attorney

JAMES R. McGRAW LAW OFFICE
Attorneys for Defendant
333 East Onondaga Street
Syracuse, New York 13202
By: ANNALEIGH PORTER, ESQ.

AMY L. FOX
Court Clerk

[Signature]
CLERK

2012 APR 25 A 9:35

OSWEGO COUNTY
CLERK'S OFFICE

 **COPY**

Amy VanAlstyne
Transcriber

1 **THE CLERK:** James H. Steen, Jr.. This is
2 the matter of The People of the State of New York
3 versus James H. Steen, Jr., Indictment #10C-0138.
4 We're here today for sentencing. Would counsel
5 please state their names for the record.

6 **MS. PORTER:** Annaleigh Porter for James
7 Steen.

8 **MR. DODD:** Donald Dodd, Judge, District
9 Attorney's Office. Mr. Steen is physically present,
10 sir.

11 **THE COURT:** Yes. First issue to resolve is
12 at least Channel 9 has asked to videotape the
13 proceedings for broadcast at a later date.
14 Objection by counsel or anyone or --

15 **MS. PORTER:** Yes, your Honor.

16 **THE COURT:** Agreeable or --

17 **MR. DODD:** Apparently an objection by
18 Defense Counsel.

19 **THE COURT:** All right. There's been
20 objection by Defense Counsel so the proceedings
21 cannot be taped.

22 Next issue, I guess, before we go to
23 sentencing, Mr. Dodd, you had sent down a request
24 for the Department of Social Services for
25 restitution for burial expenses for Victoria Steen

1 and I see that figure differs from the figure of
2 Probation so let me see what they have and what you
3 have here as to why they're different possibly.
4 Okay, Probation had Charles Carr and you have
5 Victoria Steen so I guess we have to add the request
6 by Department of Social Services for Victoria's
7 burial expenses which are \$2,220 to the \$3,500
8 Charles Carr's family's request for burial expenses
9 and I will have to put a total on here. So the
10 total request for restitution on this is \$5,720 with
11 the \$285 surcharge for a total of \$6,006. Mr. Steen
12 has a right to have a hearing on that matter or if
13 he's agreeable to the \$6,006 requested, the Court
14 would order restitution in that sum to be paid by
15 Mr. Steen. So that's the first issue. Is he
16 agreeable to the restitution as requested or is he
17 requesting a hearing?

18 MS. PORTER: He is not requesting a hearing,
19 your Honor. However, I make note that he does not
20 have any assets in his name at this time.

21 THE COURT: I'll order the restitution and
22 I'll recommend the Parole Board collect it from him
23 so -- I mean, if he has assets and the Department of
24 Corrections deems it appropriate or he obtains money
25 in some fashion, it's my understanding they'll take

1 those monies or a portion of them, at least, for
2 purposes of satisfying the restitution obligation.

3 MS. PORTER: Yes, your Honor.

4 THE COURT: So he's waiving his right to a
5 hearing on the restitution and he's agreeable to the
6 Court ordering restitution in the sum of \$6,006?

7 MS. PORTER: Correct, your Honor.

8 THE COURT: All right. Then with regard to
9 sentencing, the Pre-Sentence Report had attached to
10 it numerous letters and apparent requests by
11 individuals that wish to speak at sentencing on
12 behalf of the two victims. There was one letter, I
13 note, that is apparently from an aunt with no name
14 that the People are requesting to read and at this
15 time, Mr. Dodd, how many family members are choosing
16 to speak because the Court of Appeals has indicated
17 that this Court has discretion with regard to
18 allowing individuals to speak at sentencing or not
19 and their language is that the Court in its
20 discretion allowing more than one person to speak on
21 behalf of the victims that the circumstances that
22 the Court should consider in allowing persons to
23 speak -- let me find their language because the
24 Court of Appeals in this situation where individuals
25 were not allowed to speak -- "in exercising its

1 discretion in making this determination, the Court
2 must determine if the statements would be
3 (inaudible) unhelpful, repetitive, inflammatory or
4 otherwise inappropriate." And having read these
5 letters, I find they are really not helpful to this
6 Court with regard to sentencing to a large extent.
7 They certainly are repetitive and they appeared,
8 also, to be inflammatory. For some reason, victims
9 wishing to speak at sentencing has gotten to the
10 point now where it's not offering information to the
11 Court relative to the sentence but it seems to be an
12 attempt by the family members -- I'm not talking
13 particularly about this case -- to come in and wish
14 to degrade the Defendant and create an inflammatory
15 atmosphere which this Court doesn't find to be
16 helpful, so I don't know who wants to speak but,
17 please, advise.

18 **MR. DODD:** Yes, sir. I can report this to
19 the Court and this is as of my conversations last
20 night and, also, this morning. Starting with the
21 victim, Victoria Steen, I can report to the Court
22 that I spoke with her natural mother, Ms.
23 (inaudible) last night and also natural father,
24 Rodney West, and there is no one that I am aware of,
25 at this point, that wishes to address the Court

1 relative to Victoria Steen in terms of mother or
2 father that I'm aware of.

3 Separate and distinct, Judge, as to Charles
4 Carr, Jr., here in the Courtroom would be Charles
5 Carr, Sr., father, and I believe Deborah, mother.
6 In speaking with Mr. Carr, Sr., he's indicated to
7 me, sir, that he did not wish to make any commentary
8 to the Court on the issue of sentence. I believe
9 that included within the information provided in the
10 PSI, it was a request by an aunt.

11 **THE COURT:** No name. I don't even know who
12 it is.

13 **MR. DODD:** I believe it is someone named
14 Mrs. Donna Marsden and I can see that there's a
15 Mrs. Marsden who is apparently here in Court, so on
16 behalf of the deceased, Charles Carr, Judge, it
17 would appear that there's a biological relative
18 aunt, a Mrs. Donna Marsden. Those would be the only
19 persons that I'm aware of that indicated that they
20 wished to address the Court in terms of sentence.

21 **THE COURT:** The aunt wants to speak because
22 the letter said she wanted the People to read her
23 letter that was provided to the Court together with
24 the Pre-Sentence Investigation. So does she want to
25 speak or are you reading in her letter?

1 MR. DODD: Well, Judge, can I take one
2 moment just to finalize that?

3 THE COURT: Sure.

4 MR. DODD: Thank you. Judge, I can report
5 this back to the Court. I've spoken just a moment
6 ago with Ms. Marsden, Judge. There apparently has
7 been a writing submitted to the Court in the form of
8 a letter. She would rely upon the letter itself
9 without the necessity of it being read in Court and,
10 further, we would ask the Court to consider that as
11 a factor amongst the factors that you will look at
12 in terms of sentence. So I can report at this point
13 there does not appear to be a family member, other
14 than that which I've just said, that wishes to
15 address the Court, sir, relative to aspect of
16 sentence.

17 THE COURT: Okay, and there was attached to
18 the Report, also, letters from other family members
19 of Mr. Carr which have been made available to
20 counsel and the Court has reviewed and the only
21 reason I wanted this issue to be addressed is
22 because they do appear there's -- oh, there's a
23 letter signed by Donna Marsden but then there's,
24 also, this other letter that asks the People -- it
25 says, "Please read at sentencing by D.A. if

1 possible" wrote by an aunt, so the aunt is the other
2 letter by Donna Marsden. Those are written or
3 penned by the same individual.

4 MR. DODD: Yes, sir, that's my
5 understanding.

6 THE COURT: Oh, okay. See, I didn't know.
7 I mean, I couldn't tell. And then there was, also,
8 the Victim Impact Statements. I don't know who
9 prepared this one. No name. So, apparently, all of
10 the two letters that were received, they were both
11 written by Donna Marsden. In addition, there's two
12 Impact Statements, Victim Impact Statements and it's
13 interesting because I really never noticed this
14 before. They don't have a name on them. It says,
15 "My firstborn child, a son, a junior, in fact.
16 Losing my firstborn has left an empty hole." So
17 it's got to be by one of the parents. I guess it's
18 the parent of Mr. Carr.

19 MR. DODD: Yes.

20 THE COURT: But there's no name or anything
21 on them but --

22 MR. DODD: Yes.

23 THE COURT: -- I got the information that
24 they both provided.

25 Did the People want to be heard on

1 sentencing then, seeing none of the victims want to
2 speak, is that correct?

3 MR. DODD: Yes, sir, Judge. I would move
4 sentence and I would ask to be heard, Judge.

5 THE COURT: Okay.

6 MR. DODD: The Court has addressed the issue
7 of restitution.

8 This is premeditated and calculating and the
9 Court is aware that this started well before the
10 date that he took the lives of two persons. Back in
11 February this Defendant threatened to kill Victoria.
12 We know that from potential evidence that we
13 discussed that could be admissible at time of trial.
14 He put his hands around her throat, tightened his
15 hands to the point of loss of consciousness. That
16 gave rise to a charge filed against him back on
17 February 28th of 2010 that resulted in his
18 conviction when he pled guilty to that August 31.
19 So his premeditation to cause her death extends well
20 back in time and, on the day in question, Judge,
21 clearly it would be my position to the Court he was
22 motivated by anger and jealousy, anger towards her,
23 jealousy of Charles, Jr.. This matter was
24 calculated, designed. There were all sorts of
25 opportunities for this man to elect not to shoot

1 someone. Evidence of that would be when he was
2 stopped for the traffic charge, Judge, of speeding.
3 He calculated and decided to do this and I think
4 that the only appropriate sentence, obviously, is
5 imprisonment.

6 It's going to be my recommendation to the
7 Court that -- and you have two matters to sentence
8 him upon.

9 **THE COURT:** Three.

10 **MR. DODD:** The two Murder, 2s and the
11 Murder, 1, yes. It would be my position to the
12 Court that you impose a sentence that will make sure
13 that he's locked up for the rest of his life and I
14 know the options would be a potential sentence of
15 life imprisonment without parole as to Murder, First
16 Degree.

17 Alternatively, Judge, as to each of the
18 Murder 2s, it would be my specific recommendation
19 you consider imposing a sentence of 25 years to life
20 as to each to run consecutively, Judge.

21 Thank you very much, sir.

22 **THE COURT:** And you're, also, aware that in
23 the event he's sentenced to life without parole,
24 then he has -- those sentences have to run
25 concurrent. They can't run consecutive.

1 MR. DODD: Yes.

2 THE COURT: I just want you to make sure
3 when --

4 MR. DODD: If you do exercise that option,
5 yes.

6 THE COURT: All right. Okay -- I forgot
7 your name.

8 MS. PORTER: Ms. Porter.

9 THE COURT: Ms. Porter. First of all, are
10 there any errors in the Pre-Sentence Report?

11 MS. PORTER: No, your Honor.

12 THE COURT: Okay, and did you want to be
13 heard relative to sentencing?

14 MS. PORTER: Yes. We mentioned to the Court
15 that the People do have the burden of establishing
16 the legality of a consecutive sentence.

17 Also, we would just like to state and
18 request that the Court take into consideration in
19 fashioning a sentence that the Defendant's acts,
20 although we don't contend they were right -- it is
21 clear that they were wrong -- but that they were
22 motivated out of a desire to protect his children.

23 THE COURT: Is that all?

24 MS. PORTER: That's it, your Honor.

25 THE COURT: How about you, Mr. Steen?

1 Anything you want to say?

2 THE DEFENDANT: No, sir.

3 THE COURT: Well, Mr. Steen, obviously
4 you're aware the jury did not find your defense that
5 your actions were to protect your children had any
6 validity to it because they found you guilty of the
7 Murder, First Degree, and the Murder, Second Degree,
8 in the last two counts of the Indictment and,
9 frankly, this Court can understand that decision by
10 the jury because we all know from the facts of this
11 trial that apparently you were concerned with this
12 child that was allowed by your ex-wife, estranged
13 wife, to go to her oldest child's father. In any
14 event, that residence was down in the
15 Hastings/Brewerton area in the southern part of
16 Oswego County and when you found out about this, and
17 whether you found out about it the night before or
18 that morning really doesn't make a lot of difference
19 because when you did find out, if it was in the
20 morning, then it was an immediate reaction on your
21 part. If it was the night before, you had all night
22 to think about it. In any event, you didn't go down
23 to save the child and drive south where the child
24 was but you drove all the way north to Pulaski and
25 you took a shotgun with you and there doesn't appear

1 to be any question here about what you were going to
2 do because you weren't saving the child because the
3 child was miles south of where you were going and
4 the direction you were heading and you certainly
5 didn't need the shotgun to save the child.

6 This Pre-Sentence Report sets forth that you
7 have always been in the Special Learning classes and
8 you had a difficult childhood, apparently, because
9 of your parents, the problems with their marriage
10 and, interestingly enough, Mr. Dodd points out that
11 you apparently threatened to kill your wife but the
12 Report indicates there was a time when, I guess, you
13 threatened to kill your mother, also, some years
14 ago.

15 MS. PORTER: Your Honor, on the record, from
16 my reading of the Pre-Sentence Report, I believe it
17 stated his father had threatened to kill his mother.

18 THE COURT: You think that's what it says?
19 Because I read it a couple of times and I was trying
20 to figure it out but the end result, I thought it
21 was the Defendant here because it says, "The officer
22 spoke to the Defendant's mother, Sheila Mifflin, by
23 phone. She indicated that the Defendant had a very
24 difficult childhood especially in relation to the
25 divorce." So it's a good thing we clear this up

1 because I would think Corrections may read it the
2 same way. She said his father played a lot of head
3 games with their boys. She also verified that the
4 Defendant's claim that Mr. Steen -- the Defendant's
5 claim, okay, so it's -- this is referring to Mr. --
6 the Defendant's father.

7 MS. PORTER: Yes. Earlier in the
8 Pre-Sentence Report it states the Defendant's claim
9 about his father making that threat.

10 THE COURT: All right. It's good that
11 that's cleared up then. But, apparently, you had a
12 lot of problems, Mr. Steen, and, obviously, you
13 know, there were people attempting to help you. You
14 were in Court at the time and there's no question
15 here that this was a premeditated taking of two
16 individuals' lives.

17 So upon your conviction, Mr. Steen, the
18 Court is going to -- upon your conviction for Murder
19 in the First Degree, which was the first count of
20 the Indictment, I'm going to sentence you to a
21 sentence of life without parole.

22 That's uncalled for.

23 And upon your conviction for Murder in the
24 Second Degree in the fourth count of the Indictment,
25 the Court is going to sentence you to 25 years to

1 life.

2 And upon your conviction of the fifth count
3 for Murder in the Second Degree, similarly impose a
4 sentence of 25 years to life, order restitution in
5 the sum of \$6,006, recommend the Parole Board
6 collect that from you, say, within 80 months. It
7 will continue if it's not paid. There's also a \$50
8 DNA Fee the Court has to impose which should be
9 collected from you within four months and the Court
10 will waive the \$325 surcharge seeing it's ordering
11 restitution.

12 Good luck, Mr. Steen.

13 (End of tape recording.)

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18 I, Amy VanAlstyne, certify that the foregoing
19 transcript of proceedings in the Oswego County Court of
20 People v. James H. Steen, Jr., Indictment #10C-0138, was
21 prepared using the required transcription equipment and
22 is a true and accurate record of the proceedings.

23
24 Amy VanAlstyne

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April 23, 2012